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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,709	06/12/2001	Wade Summers	SUM.101	3775

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EXAMINER

FISCHER, JUSTIN R

ART UNIT PAPER NUMBER

1733

DATE MAILED: 08/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/879,709

Applicant(s)

SUMMERS, WADE

Examiner

Justin R Fischer

Art Unit

1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 August 2000 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 15 and 18-21.

Claim(s) rejected: 1-14 and 17.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: Attachment- Interview Summary on August 5, 2003

C ntinuation of 2: The after final amendment submitted on August 11, 2003 requires "at least some of the balls are independently free to shift circumferentially relative to said safety rim and said tire....". This limitation was not previously required by the originally drafted claims or the amended claims submitted in subsequent communications. As such, the newly added limitation would require further search and consideration. It is emphasized that the previously drafted claims never identified the circumferential movement of the respective balls upon puncture of a given ball- the claims only required a plurality of inflated balls having a diameter that spans the tire cavity.

Continuation of 5: As previously stated, the proposed after final amendment would require further search and consideration. As to the declaration submitted on August 11, 2003, the declaration is not commensurate in scope with the claimed invention. In particular, the declaration suggests that it would be impossible to mount the tire design of Krum on a safety rim, primarily based on the fact that the inventor has not been able to mount his tire on a rim having three obstructions or rim locks. Applicant contends that the tire design of Krum contains at least three obstructions (similar to rim locks of inventive concept) and as such, there is not enough degrees of freedom to mount the tire. However, the "safety rim" defined by the claimed invention fails to define a single rim construction- in fact, a majority of "safety rim" constructions are formed with a left and right recess (bead seats) in which a left and right edge of the tire are received. The fact that the inventive tire design is not mountable on applicant's specific "safety rim" construction (clincher like) when three obstructions or rim locks are present does not suggest that the inventive tire design is not mountable on all "safety rim" constructions. It is further noted that the declaration was submitted in attempt to overcome the rejections using Krum; however, the final rejection included rejections using Peck and Grubb in addition to Krum and as such, the declaration is not found to be persuasive.

Justin Fischer
8/26/03